

MYOB Essentials Payroll

Managing Periods of Leave without Pay

June 2020



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Introduction

The complexity of the Holidays Act 2003 is Act is universally acknowledged, and issues of implementation are an ongoing challenge for businesses across New Zealand.

MYOB Essentials Payroll is committed to helping employers meet their obligations under the Holidays Act 2003. There are areas of the Act which require manual intervention with MYOB Essentials Payroll to ensure compliance and avoid under or over payments for certain leave types.

This document provides an overview of the manual intervention required and what employers may need to consider when managing unpaid leave.

Manual intervention will be required by you if any of your employees take unpaid leave i.e Leave Without Pay (LWOP) in excess of one week in any 12-month period. It is important to note that if you don't manually update the product as outlined in parts of this document, you risk underpayment for Holiday pay for your employees.

Disclaimer: This document provides guidance on how to manage leave entitlements within our product. We recommend that you read the MBIE document "*Holidays Act 2003: Guidance on annual holidays, domestic violence, leave, bereavement leave, alternative holidays, public holidays and sick leave*" to understand how to meet your obligations as an employer under the Holidays Act 2003. If you have further questions or are in doubt, it is best to seek legal advice to ensure you are meeting your obligations.

MBIE Website: [Leave without pay](#)

Background

Section 16 of the Holidays Act 2003 provides all employees an entitlement to 4 weeks of Annual Leave after each "12 months of continuous employment". The Act states that periods of unpaid leave (commonly known as Leave without Pay (LWOP)) greater than one week **do not** count towards the period of continuous employment. What this means is that you need to decide how you will treat unpaid leave for more than one week for your employees as it will have an impact on the rate of payment for Annual Holidays. You should ensure that this is agreed with your employee and it is recommended that their employment agreement includes what you have agreed.

The 2 options you have for managing situations where an employee takes more than one week's unpaid leave during the year are:

1. The default option is that the employee's anniversary date for the employee's entitlement to annual holidays (the point at which they receive their four weeks of Annual Holidays) moves by the period of unpaid leave in excess of one week. That is, if an employee takes two weeks unpaid leave, they would become entitled to Annual Leave one week later each year.
2. You can instead agree with your employee that the period (or periods) of unpaid leave in excess of one week **do count** towards the period of continuous employment. If you come to this agreement, your employee's average weekly earnings (AWE) calculation must be modified to reflect the number of whole or part weeks greater than one week that the employee was on unpaid leave. For example, if an employee takes two weeks unpaid leave during the year, and you have agreed that the second week of unpaid leave

will count towards their continuous employment, AWE must be calculated on a 51-week basis, instead of 52. Note: you will still need to compare the employee's AWE against their ordinary weekly pay (OWP) when determining their pay for any period of Annual Holidays.

What is required

You should ensure that the treatment of unpaid leave is agreed with your employees (i.e. by adjusting their anniversary date (Option 1), or by adjusting the Average Weekly Earnings rate (Option 2)), and it is recommended that their employment agreement includes what you have agreed.

If you choose option 1, to extend your employee's anniversary for any period of unpaid leave in excess of one week, you can adjust their anniversary date. This option will need ongoing management in the product only if there are further periods of unpaid leave of more than one week.

For instructions, see our help topic about [Unpaid leave](#).

If you agree with your employee to option 2, (to count any period of unpaid leave in excess of one week towards their continuous employment) you will need to reduce the AWE divisor manually every time holidays are being paid.

For example, an employee takes 2 weeks LWOP and their divisor is reduced to 51 (remember the first week does not reduce the divisor).

- You have agreed with this employee that their working week is 40 hours = 2080 hours over 52 weeks.
- You are reducing the AWE divisor by one week = 40 hours
- As shown here, their divisor is changed from 2080 to 2040.

Average weekly earnings	
Enter the employee's gross earnings and total contracted hours for the past 12 months.	
Gross earnings for 12 months to 01/04/2020:	52,000.00 \$
Total contracted hours for 12 months to 01/04/2020:	2,040.00 hr
Hourly rate	25.49

It is important to remember to keep a record of the unpaid leave and the date it was taken, as you will need to manually adjust any Annual Holiday pay for 52 weeks after the date of the unpaid leave. If you don't manually adjust this every time, your

AWE calculation will generate a lower rate and risk underpayment for Holiday pay for your employee.

Reviewing required changes

You should review previous holiday payments for employees that have taken LWOP in excess of one week and you haven't completed one of the options above. In the case of option 1 your employee may have become entitled to Annual Holidays earlier than required by the Act however there would be no impact on the Annual Holiday payments you have made to them.

In the case of option 2 the AWE rate could be incorrect (i.e lower than it should be) and you may not have paid the greater of AWE or OWP. Reviewing this is complex and we recommend you engage your accountant or your employment relations advisor prior to conducting this review if you think you have employees who may be affected.

To review and recalculate the AWE for comparison to OWP and what was paid at the time, you can:

1. Run the [Payroll detailed report](#).
2. Set the date range for 12 months prior to the end of the last payroll period until the annual holiday was taken.
3. Identify the gross earnings.
4. Subtract [specific payment types](#) from the gross earnings.
5. Divide this figure by the adjusted weeks divisor and then the weekly hours (agreed definition of a week). This will produce an hourly AWE rate for comparison.

What next

If a review identifies an incorrect payment of Annual Holidays, you'll need recalculate the correct payment to determine a [back pay](#) amount. You can then pay this in the employee's next pay.

Managing the Software

For information on managing LWOP in MYOB Essentials Payroll, see our help topic [Unpaid leave](#).